

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

In Case No. 2004-0865, Appeal of Michael McJuary, Sr., the court on November 14, 2005, issued the following order:

The employee, Michael McJuary, Sr., appeals an order of the compensation appeals board (board) denying his request for benefits. He argues that the board erred in finding that his claim was barred by collateral estoppel and that its decision violated his due process rights and was not supported by the evidence. We vacate and remand.

We will reverse the board's decision only for errors of law or if we find by a clear preponderance of the evidence that the order is unjust or unreasonable. See Appeal of Hooker, 142 N.H. 40, 47 (1997). If competent evidence supports the board's decision, we will affirm its determination even if other evidence would lead to a contrary result. See id.

The employee argues that the board erroneously found that his claim was barred by collateral estoppel. We have reviewed the board's decision and find no error in its statement of the law. Appeals to the board from a decision of the commissioner or the commissioner's representative are de novo, see RSA 281-A:42-a, I (Supp. 2005); thus collateral estoppel would not bar consideration of the issues that are the subject of the direct appeal. The board may, however, be barred from considering an issue that has been finally resolved in previous litigation between the parties. See Appeal of Wingate, 149 N.H. 12 (2002) (employee barred from litigating issue in subsequent proceeding where he failed to appeal board's adverse ruling on same issue in earlier appeal). Although the board correctly set forth the applicable law, it is difficult to determine whether it concluded that it was constrained by earlier decisions of other boards in reviewing the employee's claim. Based on the record before us, we find no such constraints. Moreover, the employer does not argue on appeal that collateral estoppel prevented consideration of the employee's claim; rather, the employer argues that the board rejected the employee's claim on the merits. We are unable to determine, however, whether the board reached the correct conclusion on the merits given the cursory nature of its order. We therefore vacate the decision and remand this case to allow the board to clarify its decision, supported by specific findings of fact and rulings of law.

The employee also argues that the board violated his due process rights because its decision contained "self-contradictory rulings" and "fail[ed] to

comply with the statutory mandates requiring findings of fact and rulings of law.” Because our order today requires that the board provide a more specific detailed decision, we do not address these issues at this time.

Vacated and remanded.

NADEAU, DALIANIS and DUGGAN, JJ., concurred.

Eileen Fox
Clerk